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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
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**DATE MAILED:**

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

## Office Action Summary

Application No.

09/021,370

Applicant(s)

HASHIMOTO, KEN

Examiner

Daniel St.Cyr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will by statute cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 14 February 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

### Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Prosecution Application*

1. The request filed on 2/14/01 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/021,370 is acceptable and a CPA has been established. An action on the CPA follows.

### *Claim Rejections - 35 U.S.C. § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-10, 12-25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimamura et al. US Patent No. 5,522,509.

Shimamura et al discloses an apparatus and a tableware sorting apparatus comprising: a reading means 23 for reading data in a non-contact state from a data carrier 12 attached to a container 11 of a dish selected by the customer; a calculating means 21 for calculating a charge for the one dish; a writing means is inherently included for writing the data in the data carrier in order for the system to operate. (See col. 4, lines 1-27); antennas 31,32, serve as input means for inputting data to be used to calculate the charge. (See col. 4, lines 39-47); the data carrier 12 is attached to the bottom 11a of the container 11, and said reading means reads the data collectively from the data carrier of the container placed on the tray 24. (See col. 4, lines 1-27); said reading means reads price data, the kind, of each dish from the carrier and said calculating means adds up the price of each dish and calculates the charge for the one dish and outputs the kind of dish in

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a display. A register or a computer for storing the kind and the price, of each dish (see col. 3, lines 24-27). (See col. 3, lines 35-52); one or more items of goods are arranged flatly so that the directions of attached data carriers is the same, and said reading means reads the data collectively from the data carriers of the one or more goods arranged flatly. (See figure 6; col. 4, lines 19-28).

Shimamura et al fail to disclose or fairly suggest that the tag is a rewritable tag. However tags, such as read-only tags, dynamic tags, and read write tags, are notoriously old and well known in the art for storing information. Therefore, it would have been obvious for a person of ordinary skill in the art to employ read/write tags into the system of Shimamura for the purpose of allowing a user to update the information, such as price change, in the tags. Regarding to the re-writable data carrier waiting a pre-determined period before answering the inquiring from the reading/writing means would have been an obvious expedient. Electronic devices are communicated through channels wherein once a device initiates contact the corresponding device wait for a period to receive the message and/or request before responding to the initiator. Therefore, it would have been obvious. Furthermore, these types of communication are well known in the art, such as networking, wherein each party waits for a period of time before responding to an inquiry. Therefore, it would have been an obvious expedient.

***Claim Rejections - 35 U.S.C. § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimamura et al in view of Ehrat, US Patent No. 3,836,755.

Shimamura et al do not disclose or fairly suggest a measuring means for measuring the weight of the dish or drink.

Ehrat discloses a self-service shop wherein a measuring means 182 for measuring and detecting the weight of the goods (see col. 3, lines 43-53).

It would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate the measuring means of Ehrat into the system of Shimamura et al for the purpose of monitoring the goods from the tray of the adjusting apparatus. Furthermore, having a measuring means into the system of Shimamura et al would allow the system to sell goods according their weight wherein the adjusting apparatus would calculate the price of the item corresponding to its weight which would make the system more practical and more versatile. Therefore, it would have been an obvious expedient.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shepley, US Patent No. 5,478,989.

Shepley discloses a nutritional information system for shoppers comprising: a reading means 29 for reading data in non-contact state from a data carrier, such as bar code, attached to a container of the dish or drink selected by the customer; the system calculates the nutritional information of the dish or drink selected by the customer, and displays the information. (See figures 3, 5; col. 7, lines 27-46). Shepley does not specifically disclose that the system displays the calorie of the dish or drink and the data carrier are rewritable. However, Official notice is taken that rewritable bar codes are notoriously old and well known in the art for writing

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information. Therefore, it would have been obvious to employ rewritable bar codes on the items in order to allow price updating. With regard to displaying the calories, Shepley discloses a nutritional information system for aiding customers with their purchase. Therefore, it would have been obvious for a person of ordinary skill in the art to provide customers with the ability to obtain nutritional information, including calorie information, of the dish or drink in order to allow customers to make better food choices according to specific diets which contain a predetermined amount of calories. Therefore, it would have been an obvious expedient.

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 703-305-2656. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Daniel St.Cyr  
Examiner  
Art Unit 2876

DS

March 8, 2001

KARL D. FRECH  
PRIMARY EXAMINER